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DNR-FS-2023-08

SMALL BUSINESS COMPLIANCE GUIDE

Amendment to Subtitle 02 Fisheries Service

Regarding the Department's Regulations for Submerged Aquatic Vegetation Protection Zones

Amend COMAR 08.02.01.12

Released April 28, 2023

This Guide is prepared in accordance with the requirements of State Government Article, §10-110, Annotated Code of Maryland. It is intended to help small businesses comply with the revised rules adopted in the above-referenced sections of the Code of Maryland Regulations. This Guide is not intended to replace or supersede these rules, but to facilitate compliance with the rules. Although we have attempted to cover all parts of the rules that might be especially important to small businesses, the coverage may not be exhaustive. This Guide cannot anticipate all situations in which the rules apply.

The Department will clarify or update the text of the Guide as an idea moves through the regulatory process. Direct your comments and recommendations, or calls for further assistance, to Fishing and Boating Services Regulatory Division:

410-260-8300

410-260-8DNR; toll free in Maryland 877-620-8DNR; TTY Users Call via the Maryland Relay

## I. SUMMARY & FAQs

### What is being considered?

The Department needs to revise the Submerged Aquatic Vegetation Protection Zones. Zones are being revised using data from an annual aerial survey compiled by the Virginia Institute of Marine Sciences (VIMS). The following table lists the general areas being changed. Please see the maps for a better idea of where the changes are located.

| AREAS BEING REMOVED FROM SAV ZONE DESIGNATION |  |                                   |
|---|--|-----------------------------------|
| COUNTY  | AREA   | MAP                               |
| Anne Arundel                                  | Herring Bay  | <a href="#">Anne Arundel Map</a>  |
| Calvert                                       | Broomes Island                                       | <a href="#">Calvert Map #1</a>    |
|   | Solomons Island                                      | <a href="#">Calvert Map #2</a>    |
| Dorchester                                    | Trippe Bay, Armstrong Bay, Todds Bay                 | <a href="#">Dorchester Map #1</a> |
|   | Bloodsworth Island                                   | <a href="#">Dorchester Map #2</a> |
| Kent  | North of Eastern Neck Island                         | <a href="#">Kent Map</a>          |
| Queen Anne's                                  | Crab Alley Bay and Wye River                         | <a href="#">Queen Anne's Map</a>  |
| Somerset                                      | Deal Island and Manokin River                        | <a href="#">Somerset Map #2</a>   |
|   | Big Annamessex River                                 | <a href="#">Somerset Map #3</a>   |
|   | Daugherty Creek and Pocomoke Sound                   | <a href="#">Somerset Map #4</a>   |
| St. Mary's                                    | Smith Creek and Webster Field Annex                  | <a href="#">St. Mary's Map #2</a> |
|   | Potomac River (near Lake Conoy)                      | <a href="#">St. Mary's Map #3</a> |
| Talbot  | Miles River and Eastern Bay                          | <a href="#">Talbot Map #1</a>     |
|   | Tilghman Island, Black Walnut Cove, and Harris Creek | <a href="#">Talbot Map #2</a>     |
| Worcester                                     | Sinepuxent Bay                                       | <a href="#">Worcester Map #1</a>  |
|   | Sinexpuxent Bay and Chincoteague Bay                 | <a href="#">Worcester Map #2</a>  |
|   | Chincoteague Bay and Rowley Cove/Tizzard Island      | <a href="#">Worcester Map #3</a>  |

| <b>AREAS BEING ADDED TO SAV ZONE DESIGNATION</b> |  |                                   |
|--|--|-----------------------------------|
| COUNTY   | AREA   | MAP                               |
| Anne Arundel                                     | Herring Bay  | <a href="#">Anne Arundel Map</a>  |
| Calvert  | Broomes Island   | <a href="#">Calvert Map #1</a>    |
| Kent   | North of Eastern Neck Island   | <a href="#">Kent Map</a>          |
| Queen Anne's                                     | Crab Alley Bay and Prospect Bay  | <a href="#">Queen Anne's Map</a>  |
| Somerset   | Dames Quarter Marsh  | <a href="#">Somerset Map #2</a>   |
| Somerset   | Big Annamessex River   | <a href="#">Somerset Map #3</a>   |
| St. Mary's                                       | Potomac River (downstream of Breton Bay)                                     | <a href="#">St. Mary's Map #1</a> |
|  | Potomac River (near St. George Island), Smith Creek, and Webster Field Annex | <a href="#">St. Mary's Map #2</a> |
| Talbot   | Shaw Bay   | <a href="#">Talbot Map #1</a>     |
|  | Tilghman Island  | <a href="#">Talbot Map #2</a>     |
| Worcester  | Sinepuxent Bay   | <a href="#">Worcester Map #1</a>  |
|  | Sinepuxent Bay and Chincoteague Bay  | <a href="#">Worcester Map #2</a>  |
|  | Chincoteague Bay, Rowley Cove/Tizzard Island, and Mills Island               | <a href="#">Worcester Map #3</a>  |

#### **Why is this change necessary?**

Natural Resources Article, §4-1006.1, Annotated Code of Maryland requires the Department to create and update submerged aquatic vegetation protection zones every three years using data from the annual aerial survey compiled by the Virginia Institute of Marine Sciences (VIMS) for the annual Bay-wide Submerged Aquatic Vegetation Mapping Program.

#### **Who will this affect?**

Individuals interested in applying for a shellfish aquaculture lease in any of the affected areas and commercial clambers who utilize any of the affected areas.

#### **What do you need to do to comply with the change?**

Individuals harvesting clams with a hydraulic clam dredge will have to stay out of the new or expanded SAV protection zones.

#### **Has this change been discussed with advisory commissions?**

This idea was also discussed with the Tidal Fisheries Advisory Commission at their April 2023 meeting.

#### **What are the specific regulatory actions?**

Amend Regulation .12 under COMAR 08.02.01 General.

## II. DEFINITIONS

“Hydraulic Clam Dredge” is any device used for dredging clams which consists of a manifold through which water is forced under pressure for the purpose of digging clams and working them into the mouth of the dredge where the clams then are brought up to boat level by means of an escalator. "Hydraulic clam dredge" includes the vessel on which the dredge is carried.

“Submerged Aquatic Vegetation (SAV)” is a variety of grasses that grow to the surface of, but do not emerge from, shallow water.

“Submerged Aquatic Vegetation Protection Zone” is an area delineated by the Department for the protection from uprooting and the restoration of submerged aquatic vegetation.

## III. IMPLEMENTATION DATE

The Department projects that this change could be effective in the fall of 2023, however the exact date cannot be determined. The Department will follow our normal proposal procedures if this concept moves forward.

This idea is in the scoping process (April 28—May 14). During the scoping process, the Department gathers suggestions and ideas from stakeholders and others about how to solve a fishery problem or address a need. The goal of scoping is to identify issues, potential impacts, and reasonable alternatives associated with the issues so that management actions can be developed. After the public has had an opportunity to comment on possible management actions during the scoping process, the Department considers these comments and develops an appropriate management strategy.

If the action is necessary and appropriate, the rules will be promulgated following the Administrative Procedures Act described in Title 10, Subtitle 1 of the State Government Article Annotated Code of Maryland.

- The General Assembly’s Administrative, Executive, and Legislative Review Committee reviews the regulatory proposal for fiscal and legal analysis.
- The proposal is printed by the Division of State Documents in the Maryland Register.
- A 30 day public comment period begins on the day of publication.
- After review of the comments, the Department may adopt the changes.
- If the Department adopts the changes, they become effective after a notice is published in the Maryland Register that announces approval and the effective date.

## IV. INTERNET LINKS & ADDITIONAL RESOURCES

- [Natural Resources Article, §4-1001, Annotated Code of Maryland](#)
- [Natural Resources Article, §4-1006.1, Annotated Code of Maryland](#)
- [COMAR 08.02.01.12](#)